

information; and (2) a copy of, or a description by category and location of all documents, data compilations and tangible things in the possession, custody, or control of the party that are relevant to the disputed facts alleged with particularity in the pleadings.<sup>189</sup> While these proposed rules may place a greater burden on a small business entity to provide better legal and factual support early in the process, we tentatively conclude that it does not significantly alter the level of evidentiary and legal support that would be ultimately required of parties in formal complaint actions pursuant to the current rules. It may, however, make it more difficult for all complainants, including small business, to gather the information needed to prevail on their complaints. Potentially higher initial costs may be somewhat offset by the prompt resolution of complaints and the avoidance of protracted and costly discovery proceedings and briefing requirements. It has been noted, for example, that the overall litigation costs of "rocket docket"<sup>190</sup> cases in the U.S. District Court for the Eastern District of Virginia are lower than the costs of cases that take longer to resolve.<sup>191</sup> Indeed, by requiring better and more complete submissions earlier in the process, this proposed rule reduces the need for discovery and other information filings, thereby significantly reducing the burden on small business entities. We seek comment on this tentative conclusion and any other potential impact of these proposals on small business entities.

119. Damages. The Commission proposes to allow bifurcation of liability and damages issues<sup>192</sup> by permitting a complainant to file a supplemental complaint for damages after a finding of liability. In such a case, the Commission would defer adjudication of all damages issues until after a finding of liability. The Commission also proposes to require, in certain cases after liability has been found, defendants to place a sum of money in an interest-bearing escrow account, to cover part or all of the damages for which they may be found liable.<sup>193</sup> While the bifurcation of liability and damages issues may require small business entities to postpone litigation of damages issues, any increased costs will be somewhat offset by the prompt resolution of the liability issues in complaints and the avoidance of protracted and costly discovery proceedings and briefing requirements in the initial proceeding. The proposal to require defendants to place a sum of money in an interest-bearing escrow account may have a significant economic impact on defendants that are small business entities without sufficient funds. We seek comment on this tentative conclusion and any other potential impact of these proposals on small business entities.

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<sup>189</sup> See Appendix A, §§ 1.721(a)(10), (11); 1.724(g),(h); 1.726(c).

<sup>190</sup> See supra note 54.

<sup>191</sup> See supra note 82.

<sup>192</sup> See Appendix A, § 1.722(c).

<sup>193</sup> See Appendix A, § 1.722(d)(2).

120. Significant Alternatives to the Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives: We have included a proposal to waive many of the proposed pleading requirements with respect to complainants and other entities that can demonstrate good cause.<sup>194</sup> Upon an appropriate showing of financial hardship or other public interest factors, we propose to waive format and content requirements under Section 1.721 of the rules.<sup>195</sup> Furthermore, the proposed rules apply only to Section 208 complaints that are filed with the Commission. Complainants wishing to assure themselves of the ability to utilize full discovery, for example, are not precluded from filing their complaints in federal district court.<sup>196</sup> The impact on small business entities of the proposal to require defendants to place a sum of money in an interest-bearing escrow account would be minimized by the fact that this measure would be implemented under standards similar to those used for determining whether a preliminary injunction is appropriate, *e.g.*, likelihood of success on the merits, irreparable harm, etc.<sup>197</sup> In addition, the Complaint NPRM solicits comments on a variety of alternatives.

121. Federal Rules that May Overlap, Duplicate, or Conflict with the Proposed Rules:  
None.

#### D. Comments

122. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, all interested parties may file comments on the matters discussed in this Complaint NPRM and on proposed rules contained in the appendices on or before January 6, 1997 and reply comments on or before January 31, 1997. Parties are also invited to submit, in conjunction with their comments or reply comments, proposed text for rules that the Commission could adopt in this proceeding. Specific rule proposals should be filed as an appendix to a party's comments or reply comments. Such appendices may include only proposed text for rules that would implement proposals set forth in the parties' comments and reply comments in this proceeding, and may not include any comments or arguments. Proposed rules should be provided in the format used for rules in the Code of Federal Regulations, and should otherwise conform to the Comment Filing Procedures set forth in this Complaint NPRM.

123. To file formally in this proceeding, participants must file an original and six copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, they must file an original and nine copies. In addition, participants are encouraged to submit two additional copies directly to the

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<sup>194</sup> See *supra* section on "Format and Content Requirements."

<sup>195</sup> See Appendix A, § 1.721(c).

<sup>196</sup> See 47 U.S.C. § 207.

<sup>197</sup> See *supra* note 107.

Common Carrier Bureau, Enforcement Division, Room 6008, 2025 M Street, N.W., Washington, D.C. 20554. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

124. In order to facilitate review of comments and reply comments, both by parties and the Commission, comments and reply comments should include a summary of the substantive arguments raised in the pleading.<sup>198</sup>

125. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to the formal filing requirements addressed above. Parties submitting diskettes should submit them to Anita Cheng, Common Carrier Bureau, Enforcement Division, Room 6008, 2025 M Street, N.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS-DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

## VI. ORDERING CLAUSES

126. Accordingly, IT IS ORDERED that pursuant to Sections 1, 4, 201-205, 208, 215, 218, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205, 208, 215, 218 and 220, a NOTICE OF PROPOSED RULEMAKING is hereby ADOPTED.

127. IT IS FURTHER ORDERED that the Secretary shall send a copy of this Complaint NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601, et seq. (1981).

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<sup>198</sup> The summary may be paginated separately from the rest of the pleading (e.g., as "i, ii").

128. IT IS FURTHER ORDERED that the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures, if necessary, to provide for a fuller record and a more efficient proceeding.

FEDERAL COMMUNICATIONS COMMISSION

*William F. Caton*

William F. Caton  
Acting Secretary

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**APPENDIX A****PROPOSED RULE CHANGES**

Part 0 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 0.291 is revised to read as follows:

**§ 0.291      Authority delegated**

....

(d) *Authority to designate for hearing.* The Chief, Common Carrier Bureau shall not have authority to designate for hearing any formal complaints which present novel questions of law or policy which cannot be resolved under outstanding precedents or guidelines. The Chief, Common Carrier Bureau shall not have authority to designate for hearing any applications except applications for facilities where the issues presented relate solely to whether the applicant has complied with outstanding precedents and guidelines.

Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

2. Section 1.47 is revised to read as follows:

**§ 1.47      Service of documents and proof of service**

....

(b) Where any person is required to serve any document filed with the Commission, service shall be made by that person or by his representative on or before the day on which the document is filed.

....

(h) Every carrier subject to the Communications Act of 1934, as amended, shall designate an agent in the District of Columbia, upon whom service of all notices, process, orders, decisions, and requirements of the Commission may be made for and on behalf of said carrier in any proceeding pending before the Commission. Such designation shall be filed, and updated as necessary, in writing and electronically in the office of the secretary of the Commission. Service of all notices, process, orders, decisions, and requirements of the Commission may be made upon such carrier by leaving a copy thereof with such designated agent at his office or usual place of residence in the District of Columbia. If a carrier fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the office of the secretary of the Commission.

3. Section 1.720 is revised to read as follows:

**§ 1.720 General pleading requirements**

Formal complaint proceedings are generally resolved on a written record consisting of a complaint, answer, and statement of stipulated facts, but may also include other written submissions such as briefs and responses to written interrogatories. The Bureau in its discretion may designate formal complaint proceedings for resolution by hearing before an Administrative Law Judge, or where appropriate, it may refer certain issues of fact to an Administrative Law Judge for expedited hearing, while responsibility for the overall resolution of the proceeding is retained by the responsible Bureau.

All written submissions, both substantively and procedurally, must conform to the following standards:

(a) Pleadings must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy, including damages, should be pleaded fully and with specificity.

....

(h) Specific reference must be made to any tariff provision relied on in support of a claim or defense. Copies of relevant tariffs or relevant portions of tariffs that are relied upon in a pleading shall be appended to the pleading.

4. Section 1.721 is revised to read as follows:

**§ 1.721 Format and content**

....

(a)(5) A complete statement of facts which, if proven true, would constitute such a violation. All facts must be supported, pursuant to §1.720(c), by relevant affidavits and documentation, including copies of all applicable agreements, offers, counter-offers, denials, or other relevant correspondence.

(6) Complete detailed explanation of the manner in which a defendant has violated the Act, Commission order, or Commission rule in question, including identification or description and relevant time period, of the communications, transmissions, services, or other carrier conduct complained of and nature of the injury sustained;

(7) The relief sought, including recovery of damages and the amount of damages claimed, if known;

(8) Certification that each complainant has discussed the possibility of settlement with each defendant prior to the filing of the formal complaint;

(9) Whether suit has been filed in any court or other government agency on the basis of the same cause of action, or whether the complaint itself seeks prospective relief identical to the relief proposed or at issue in a notice-and-comment proceeding that is concurrently before the Commission;

(10) A copy of, or a description by category and location of all documents, data compilations and tangible things in the complainant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the complaint. The complaint may also include an explanation of why any relevant documents are believed to be confidential.

(11) The name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the complaint, identifying the subjects of information.

(12) A completed Formal Complaint Intake Form.

....

(c) Upon showing of good cause by the complainant, the Commission may waive any of the requirements of this section.

5. Section 1.722 is revised to read as follows:

**§ 1.722 Damages**

(a) In case recovery of damages is sought, the complaint shall contain appropriate allegations showing such evidence that will identify, with reasonable certainty, the amount of damages for which recovery is sought.

(b) Damages will not be awarded upon a complaint unless specifically requested. Damages may be awarded, however, upon a supplemental complaint as described more fully in section (c) below, based upon a finding of the Commission in the original proceeding. *Provided that:*

....

(c) In all cases in which recovery of damages is sought, it shall be the responsibility of the complainant to provide a computation of each and every category of damages for which recovery is sought, along with an identification of all relevant documents and materials or such other evidence to be used by the complainant to determine the amount of such damages.

(1) Where the recovery of damages is sought on the original complaint, such original complaint must include the computation of damages and identification of documents, materials and other evidence to be used in such computation described in (c) above.

(2) A complainant electing to seek damages upon a supplemental complaint as provided in subsection (b) above must clearly and unequivocally state such election in the original complaint. In cases in which a complainant clearly and unequivocally states its election to seek damages upon supplemental complaint, the computation and identification of all relevant documents, materials and other evidence described in (c) above need not be provided until such time the complainant files its supplemental complaint.

(3) Where a complainant voluntarily elects to seek the recovery of damages upon a supplemental complaint, the Commission will resolve the liability complaint within the relevant complaint resolution deadlines contained in the Act and defer adjudication of the damage complaint until after the liability complaint has been resolved.

(d) Where a complainant elects in its original complaint to seek the recovery of damages upon a supplemental complaint, the following procedures may apply in the event the Commission determines liability based upon its review of the original complaint:

(1) If the parties agree, issues concerning the amount, if any, of damages may be submitted for mediation to a Commission Administrative Law Judge. Such Administrative Law Judge shall be chosen in the following manner:

(i) By agreement of the parties and the Chief Administrative Law Judge; or

(ii) In the absence of such agreement, the Chief Administrative Law Judge shall designate the Administrative Law Judge.

(2) After the defendant has been determined to be liable in such bifurcated proceeding, the Commission may order the defendant to deposit into an interest bearing escrow account a sum equal to the amount of damages which it finds, upon preliminary investigation, is likely to be ordered after the issue of damages is fully litigated, or some lesser sum which may be appropriate, provided the Commission finds that the grant of this relief is favored on balance upon consideration of the following factors: (i) complainant's potential irreparable injury in the absence of such deposit; (ii) the likelihood that the amount of damages ordered at the conclusion of litigation will be equal to or greater than the amount deposited; (iii) the balance of the hardships between complainant and defendant; and (iv) whether public interest considerations favor the ordering of the deposit.

6. Section 1.724 is revised to read as follows:



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**§ 1.724      Answers**

(a) Any carrier upon which a copy of a formal complaint is served under this subpart shall answer within 20 days of service of the formal complaint, unless otherwise directed by the Commission.

(b) The answer shall advise the complainant and the Commission fully and completely of the nature of any defense, and shall respond specifically to all material allegations of the complaint. Every effort should be made to narrow the issues in the answer. Any defendant failing to file and serve an answer within the time and in the manner prescribed by these rules may be deemed in default and an order may be entered against the defendant in accordance with the allegations contained in the complaint.

(c) The defendant shall state concisely its defenses to each claim asserted and shall admit or deny the averments on which the complainant relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the defendant shall specify so much of it as is true and shall deny only the remainder. The defendant may make its denials as specific denials of designated averments or paragraphs. General denials are prohibited.

....

(g) The answer shall include a copy of, or a description by category and location of all documents, data compilations and tangible things in the defendant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the pleadings. The answer may also include an explanation of why any relevant documents are believed to be confidential.

(h) The answer shall also list the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the pleadings, identifying the subjects of information.

(i) Upon showing of good cause by the defendant, the Commission may waive any of the requirements of this section.

7. Section 1.725 is revised to read as follows:

**§ 1.725      Cross-complaints and Counterclaims**

(a) Compulsory counterclaims, those claims arising out of the transaction or occurrence that is the subject matter of the complaint and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, must be filed concurrently with the answer or it will be barred.

(b) Permissive counterclaims, those claims not arising out of the transaction or occurrence that is the subject matter of the complaint, must be filed concurrently with the answer in order to be resolved in the same proceeding. If not filed concurrently with the answer, however, the defendant will not be barred from filing such claim in a separate proceeding, provided that the statute of limitations has not run.

(c) Cross-complaints, claims by one party against a co-party arising out of the same transaction or occurrence that is the subject matter of either the complaint or counterclaim therein or relating to any property that is the subject matter of the original matter, must be filed concurrently with the answer in order to be resolved in the same proceeding. If not filed concurrently with the answer, however, the co-party will not be barred from filing such claim in a separate proceeding, provided the statute of limitations has not run.

8. Section 1.726 is revised to read as follows:

**§ 1.726 Replies**

(a) Replies are prohibited unless authorized by the Commission for good cause shown. If no reply is submitted, the complainant will be deemed to have denied the affirmative defenses.

(b) A complainant wishing to submit a reply must, within five days after the service of the answer, file a motion seeking leave to do so. A copy of the complainant's proposed reply should accompany its motion. A complainant's reply shall respond only to the specific factual allegations made by the defendant supporting its affirmative defenses. Replies which contain other allegations or arguments will not be accepted or considered by the Commission.

(c) Replies shall be accompanied by a copy of, or a description by category and location of all documents, data compilations and tangible things in the complainant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the pleadings. The reply may also include an explanation of why any relevant documents are believed to be confidential. Replies shall also include the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the pleadings, identifying the subjects of information.

9. Section 1.727 is revised to read as follows:

**§ 1.727 Motions**

....

(b) Motions that the allegations in the complaint be made more definite and certain are prohibited.

(c) The moving party shall provide a proposed order for adoption, which appropriately incorporates the basis therefor, including proposed findings of fact and conclusions of law relevant to the pleading. The proposed order shall be clearly marked as a "proposed order." The proposed order shall be submitted both as a hard copy and on computer disk in accordance with the requirements of § 1.734(d). The proposed order format should conform to that of a reported FCC order.

(d) A party opposing any motion shall also provide a proposed order for adoption, which appropriately incorporates the basis therefor. The proposed order shall be clearly captioned as a "Proposed Order." The proposed order shall be submitted both as a hard copy and on computer disk in accordance with the requirements of § 1.734(d). The proposed order format should conform to that of a reported FCC order.

(e) Oppositions to motions may be filed within five days after the motion is filed. Oppositions shall be limited to the specific issues and allegations contained in the motion; when a motion is incorporated in an answer to a complaint, an opposition to the motion shall not address any issues presented in the answer that are not also specifically raised in the motion. Failure to oppose any motion may constitute grounds for granting of the motion.

....

(g) All motions must contain proposed findings of fact and conclusions of law, with supporting legal analysis, relevant to the content of the pleading. All facts relied upon in motions must be supported by documentation or affidavits pursuant to § 1.720(c), except for those facts of which official notice may be taken. Assertions based on information and belief are prohibited.

(h) Amendments or supplements to complaints to add new claims or requests for relief are prohibited. Parties are responsible, however, for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding as required under § 1.720(g).

10. Section 1.730, titled "Other forms of discovery," is deleted.

11. Section 1.731 is revised to read as follows:

**§ 1.731 Confidentiality of information produced or exchanged by the parties**

(a) Any materials generated in the course of a formal complaint proceeding may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(1) - (9). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality shall have the burden of

demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in the FOIA.

....

12. Section 1.732 is revised to read as follows:

**§ 1.732 Other required written submissions**

....

(b) In cases when discovery is not conducted, briefs shall be filed concurrently by both complainant and defendant within 90 days from the date a complaint is served. Such briefs shall be no longer than 25 pages.

(c) In cases when discovery is conducted, briefs shall be filed concurrently by both complainant and defendant at such time designated by the staff, typically within 30 days after discovery is completed.

(d) Reply briefs may be submitted by either party within 20 days from the date initial briefs are due. Reply briefs shall be no longer than 10 pages.

....

(h) Within 5 days after the answer is filed, the parties shall submit a joint statement of stipulated facts and key legal issues.

13. Section 1.733 is revised to read as follows:

**§ 1.733 Status conference**

(a) In any complaint proceeding, the Commission may, in its discretion, direct the attorneys and/or the parties to appear before it for a status conference. Unless otherwise ordered by the Commission, an initial status conference shall take place within ten business days after the answer is filed, unless otherwise directed by the staff. A status conference may include discussion of:

- (1) Simplification or narrowing of the issues;
- (2) The necessity for or desirability of additional pleadings or evidentiary submissions;
- (3) Obtaining admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

- 
- (4) Settlement of all or some of the matters in controversy by agreement of the parties;
  - (5) Whether discovery is necessary and, if so, the scope, type and schedule for any discovery;
  - (6) The schedule for the remainder of the case and the date for further conferences; and
  - (7) Such other matters that may aid in the disposition of the complaint.

(b) In addition to the status conference referenced in subpart (a), any party may also request that a conference be held at any time after the complaint has been filed.

(c) During a status conference, the Commission may issue oral rulings pertaining to a variety of interlocutory matters relevant to the conduct of a formal complaint proceeding including, inter alia, procedural matters, discovery, and the submission of briefs or other evidentiary materials. Within 24 hours after a status conference, the parties in attendance, unless otherwise directed, must submit a joint proposed order memorializing the oral rulings made during the conference to the Commission. Commission staff will review and make revisions, if necessary, prior to signing and filing the submission as part of the record. Parties may, but are not required to, tape record the Commission's summary of its oral rulings. Alternatively, parties may use a stenographer to transcribe the oral presentations and exchanges between and among the participating parties, insofar as such communications are not "off-the-record." The cost of such stenographer will be shared equally by the parties.

14. Section 1.734 is revised to read as follows:

**§ 1.734 Specifications as to pleadings, briefs, and other documents; subscription**

....

(c) The original of all pleadings and other submissions filed by any party shall be signed by that party, or by the party's attorney. The signing party shall state his or her address, telephone number, facsimile number and the date on which the document was signed. Copies should be conformed to the original. Except when otherwise specifically provided by rule or statute, pleadings need not be verified. The signature of an attorney or party shall be a certificate that the attorney or party has read the pleading, motion, or other paper; that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed solely for purposes of delay or for any other improper purpose.

(d) All proposed orders shall be submitted both as hard copies and on a 3.5 inch diskette formatted in an IBM compatible form using MS-DOS 5.0 and WordPerfect 5.1 software.

The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading, and date of submission. The diskette should be accompanied by a cover letter. Parties who have submitted copies of tariffs or reports with their hard copies need not include such tariffs or reports on the magnetic disk.

15. Section 1.735 is revised to read as follows:

**§ 1.735 Copies; service; separate filings against multiple defendants**

....

(b) The complainant must file an original plus three copies of the complaint, accompanied by the correct fee, in accordance with subpart G of this part. See 47 C.F.R. 1.1105(1)(c). However, if a complaint is addressed against multiple defendants, the complainant shall pay a separate fee and supply three additional copies of the complaint for each additional defendant. For complaints filed with the Common Carrier Bureau, the complainant must also serve a copy on the Chief, Formal Complaints and Investigations Branch. For complaints filed with the Wireless Telecommunications Bureau, the complainant must also serve a copy on the Chief, Enforcement Division. For complaints filed with the International Bureau, the complainant must also serve a copy on the Chief, Telecommunications Division. The requirements of this subparagraph also apply to defendants filing cross-complaints.

....

(d) The complainant shall serve the complaint on the named defendant's registered agent for service of process. If filing a cross-complaint, the defendant/cross-complainant shall serve such cross-complaint on the named cross-defendant's registered agent for service of process and all counsel of record in the complaint proceeding.

(e) All subsequent pleadings and briefs filed in any formal complaint proceeding, as well as all letters, documents or other written submissions, shall be served either by overnight delivery or by facsimile and followed by mail, by the filing party on the counsel of record of all other parties to the proceeding, together with a proof of such service in accordance with the requirements of § 1.47(g).

16. Section 1.1105 is revised to read as follows:

**§ 1.1105 Schedule of charges for applications and other filings in the common carrier services**

....

(1)(c) Formal Complaints/Cross-Complaints and Pole Attachment Complaints/Cross-Complaints, except those relating to wireless telecommunications services, Filing Fee.

(1)(d) Formal Complaints relating to wireless telecommunications services, including cellular telephone, paging, personal communications services and other commercial mobile radio services, Filing Fee.

The same information shall be placed in the next three columns for (d) as for (c), except that in the column headed "Address" the following should be inserted for subsection (d):

Federal Communications Commission, Wireless Telecommunications Bureau, P.O. Box 358128, Pittsburgh, PA 15251-5120.

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**APPENDIX B****FORMAL COMPLAINT INTAKE FORM**

CaseName: \_\_\_\_\_

Complainant Name, Address, Phone and Facsimile Number:

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Complaint alleges violation of the following provisions of the Communications Act of 1934, as amended: \_\_\_\_\_

Answer (Y)es, (N)o or N/A to the following:

- \_\_\_\_\_ Complaint conforms to the specifications prescribed by 47 C.F.R. §§1.49, 1.734.
- \_\_\_\_\_ Complaint complies with the pleading requirements of 47 C.F.R. § 1.720.
- \_\_\_\_\_ Complaint conforms to the format and content requirements of 47 C.F.R. §1.721:
  - \_\_\_\_\_ Complaint contains a detailed explanation of the manner in which the defendant violated the provisions of the Communications Act of 1934, as amended.
  - \_\_\_\_\_ Relevant documentation and/or affidavits is attached, including agreements, offers, counter-offers, denials, or other relevant correspondence.
  - \_\_\_\_\_ Contains certification that complainant has discussed the possibility of settlement with each defendant prior to the filing of the formal complaint.
  - \_\_\_\_\_ Suit has been filed in another court or government agency on the basis of the same cause of action. If yes, please explain: \_\_\_\_\_.
  - \_\_\_\_\_ Seeks prospective relief identical to the relief proposed or at issue in a notice-and-comment proceeding that is concurrently before the Commission. If yes, please explain: \_\_\_\_\_.
  - \_\_\_\_\_ If damages are sought, contains specified amount and nature of damages claimed.
  - \_\_\_\_\_ Contains a copy of, or a description by category and location of all documents, data compilations and tangible things in the complainant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the complaint.
  - \_\_\_\_\_ Contains the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the complaint, identifying the subjects of information.
- \_\_\_\_\_ All reported FCC orders relied upon have been properly cited in accordance with Section 1.14 of the Commission's Rules, Title 47 Code of Federal Regulations, 47 C.F.R. §1.14.
- \_\_\_\_\_ Copies of cited non-FCC authority are attached.
- \_\_\_\_\_ Copy of complaint has been served on defendant's registered agent for service in accordance with [to be amended] 47 C.F.R. § 1.47(b).



- 
- \_\_\_\_\_ If more than 10 pages, the complaint contains a table of contents as specified in 47 C.F.R. §1.49(b).
  - \_\_\_\_\_ The correct number of copies, required by 47 C.F.R. § 1.51(c)(2) and 47 C.F.R. § 1.51(c)(2) if applicable, have been filed.
  - \_\_\_\_\_ Complaint has been properly signed and verified in accordance with 47 C.F.R. §1.52.
  - \_\_\_\_\_ \$150.00 filing fee specified in 47 C.F.R. § 1.1105(1)(c) is attached.
  - \_\_\_\_\_ If complaint is by multiple complainants, it conforms with the requirements of 47 C.F.R. § 1.723(a).
  - \_\_\_\_\_ If complaint involves multiple grounds, it complies with the requirements of 47 C.F.R. §1.723(b).
  - \_\_\_\_\_ If complaint is directed against multiple defendants, it complies with the requirements of 47 C.F.R. §1.735(a)-(b).